



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUL 29 2010

REPLY TO THE ATTENTION OF:

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Alison L. Benjamin
Attorney at Law
Cohen & Thiros, PC
Weston Court
200 East 90th Drive
Merrillville, Indiana 46410-8102

Re: *Summit Inc., Gary, Indiana*

Dear Ms. Benjamin:

Enclosed is your copy of the signed Administrative Consent Order (ACO) which resolves the violations of the safe disposal requirements found at 40 C.F.R. 82, as identified in the ACO.

The terms of this ACO became effective on the date of signature by the Director, and are binding for two years from the effective date. Failure to comply with this ACO may subject Summit, Inc. to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

Should you have any questions, please contact Kathleen Schnieders, Associate Regional Counsel, at (312) 353-8912, or Sara Breneman, of my staff, at (312) 886-0243.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Marable", written over a horizontal line.

Brent Marable
Chief

Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosures:

cc: Peter Coulopoulos, Summit Inc.
Summit Inc.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA-5-10-113(a)-06-IN
)	
Summit Inc.)	Proceeding Under Sections
6901 West Chicago Avenue)	113(a)(3) and 114(a)(1)
Gary, Indiana)	of the Clean Air Act
)	42 U.S.C. §§ 7413(a)(3) and 7414(a)(1)
)	
_____)	

Administrative Consent Order

1. The Director of the Air and Radiation Division (Director), U.S. Environmental Protection Agency, Region 5 (EPA), is entering into this Administrative Consent Order (Order) with Summit Inc. (Summit), 6901 West Chicago Avenue, Gary, Indiana under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3), 7414(a)(1).

I. Statutory and Regulatory Background

2. Section 113(a)(3)(B) of the Act, 42 U.S.C. § 7413(a)(3)(B), authorizes the Administrator of EPA to issue an order requiring compliance with Title VI of the Act to any person who has violated or is violating any requirement of Title VI. The Administrator of EPA has delegated her order authority to the Regional Administrator of EPA, Region 5 pursuant to EPA Headquarters Delegation 7-6-A. The Regional Administrator of EPA, Region 5, has delegated her order authority to the Director pursuant to EPA Region 5 Delegation 7-6-A.

3. The Administrator of EPA may require any person who owns or operates an emission source to make reports and provide information required by the

Administrator under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator of EPA has delegated her information gathering authority to the Regional Administrator of EPA, Region 5 pursuant to EPA Headquarters Delegation 7-8. The Regional Administrator of EPA, Region 5, has delegated her information gathering authority to the Director pursuant to EPA Region 5 Delegation 7-8.

4. Title VI of the Act, 42 U.S.C. § 7671, *et seq.* provides for the protection of stratospheric ozone. Section 608(b) of the Act, 42 U.S.C. § 7671g(b) provides EPA with the authority to regulate the safe disposal of class I and II substances. Class I and II substances include refrigerants containing chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs). In the May 14, 1993, Federal Register, 58 Fed. Reg. 28660, EPA promulgated such regulations covering the safe disposal of CFCs and HCFCs from small appliances and motor vehicle air conditioners (MVACs). These regulations for protection of the stratospheric ozone, recycling and emissions reduction are found in 40 C.F.R. Part 82, Subpart F.

5. Effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers) of small appliances and MVACs must either recover the refrigerant in accordance with specific procedures or verify with signed statements that the refrigerant was properly evacuated and recovered prior to receipt of the small appliance or MVAC. See 40 C.F.R. § 82.156(f). If verification statements are used then the scrap recycler must notify the suppliers of the small appliance or MVAC of the need to properly evacuate and recover the refrigerant. See 40 C.F.R. § 82.156(f)(3). The scrap recycler must keep verification statements on-site for a minimum of three years. See 40 C.F.R. § 82.166(i) and (m).

6. EPA's regulations for the protection of the stratospheric ozone, recycling and emissions reduction define a "small appliance" as any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five pounds or less of a class I or class II substance used as a refrigerant, including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners and packaged terminal air heat pumps), dehumidifiers, under the counter ice makers, vending machines, and drinking water coolers. See 40 C.F.R. § 82.152.

7. EPA's regulations for the protection of stratospheric ozone, recycling and emissions reduction define MVACs as mechanical vapor compression refrigeration equipment used to cool the driver's or passenger's compartment of any motor vehicle. See 40 C.F.R. §§ 82.32 and 82.152.

II. Findings

8. Summit owns and operates a scrap metal recycling facility at 6901 West Chicago Avenue, Gary, Indiana. Summit is a corporation organized and doing business in Indiana. Summit is a person as defined by 40 C.F.R. § 82.152.

9. Summit is a person who takes the final step in the disposal process of small appliances and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

10. On August 22, 2006, EPA conducted an inspection of Summit.

11. On September 25, 2006, EPA sent Summit a request for information pursuant to Section 114(a) of the Act, 42 U.S.C. § 7414(a). EPA requested information related to Summit's compliance with the safe disposal requirements of 40 C.F.R. § 82.156.

12. On September 26, 2006, EPA received Summit's response to the request for information.

13. Summit accepted small appliances without recovering refrigerant. Summit did not obtain verification statements that met the requirements of 40 C.F.R. 82.156(f) for these small appliances.

14. On February 26, 2007, EPA issued a Finding of Violation ("FOV") to Summit. EPA informed Summit in the FOV that it was not in compliance with 40 C.F.R. § 82.156(f) because it did not recover refrigerant and did not obtain proper verification statements.

15. The FOV offered Summit an opportunity to confer with EPA on the alleged violations, and on April 26, 2007, representatives of Summit and EPA discussed the FOV and alleged violations via teleconference.

16. On July 8, 2010, representatives of Summit and EPA discussed the proposed Order and agreed to the compliance program identified in Section III of this Order.

III. Compliance Program and Agreement

17. Summit must comply with 40 C.F.R. Part 82. Additionally, Summit shall take the following actions by the dates specified and maintain compliance with paragraphs 18 through 23, below, for two years after the effective date of this Order for any small appliance or MVAC that it receives at its facility.

18. By August 31, 2010, Summit shall not accept small appliances or MVACs with cut or dismantled refrigerant lines unless its supplier can provide the certification identified in paragraph 19 below.

19. By August 31, 2010, Summit shall notify its suppliers in writing that it will not accept small appliances or MVACs with cut or dismantled refrigerant lines unless the suppliers can certify that the refrigerant was properly evacuated prior to cutting or dismantling the refrigerant lines. Summit will have its suppliers use the verification statement included as Attachment 1 to this Order if they claim that refrigerant was previously evacuated.

20. By August 31, 2010, Summit shall notify its suppliers in writing that it will provide refrigerant recovery services at no additional cost or reduction in the value of the scrap. Summit may satisfy the notice requirements of paragraphs 19 and 20 with a sign that is prominently displayed at its weigh station during the period of time that this Order is effective.

21. By July 31, 2010, Summit shall purchase and use equipment to recover refrigerant from small appliances and MVACs.

22. Summit shall have the refrigerant recovered by a properly trained individual. If that individual is an employee of Summit, then Summit will ensure that the individual is properly trained to use the equipment identified in paragraph 21.

23. By August 31, 2010, Summit shall use the small appliance log included as Attachment 2. Summit will retain copies of receipts for all refrigerant it collects and sends to another company for reclamation. Summit will also document the number of small appliances it rejects, the date the appliance was rejected, and the reason for rejecting the item(s).

24. By September 30, 2010, Summit shall provide EPA with proof of its compliance with the notice requirements of paragraphs 19 and 20. By August 31, 2009,

39. This Order constitutes the entire agreement between the parties.

AGREED AS STATED ABOVE:

SUMMIT INC.

By: PETER COULOPOULOS

Date: 7/20/10

Name: [Signature]

Title: GM

AGREED AND SO ORDERED:

U.S. ENVIRONMENTAL PROTECTION AGENCY

[Signature]
Cheryl L. Newton
Director
Air and Radiation Division

Date: 7/29/10

CERTIFICATE OF FILING AND MAILING

I, Betty Williams, do hereby certify that a Administrative Consent Order,
No. EPA-5-10-113(a)-06-IN, was sent by Certified Mail, Return Receipt Requested, to:


Alison L. Benjamin
Attorney at Law
Cohen & Thiros, PC
Weston Court
200 East 90th Drive
Merrillville, Indiana 46410-8102

I also certify that copies of the Administrative Consent Order was sent by First Class
Mail to:

Peter Coulopoulos
Summit Inc.
6901 West Chicago Avenue
Gary, Indiana 46406

Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue / Room IGCN 1003
Indianapolis, Indiana 46204-2251

on the 30th Day of July 2010.



Betty Williams
Administrative Program Assistant
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7665/38